

ORDINANCE NO. 2012-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING ZONING CODE AMENDMENT NO. CA2012-002 FOR PREZONING THE UNINCORPORATED EMERSON ISLAND (PA2012-034)

WHEREAS, City of Newport Beach ("City") desires to initiate proceedings pursuant to the Cortese-Knox-Herzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code, for annexation of territory known as Emerson Island to the City; and

WHEREAS, City has submitted an application to the Orange County Local Agency Formation Commission to annex the unincorporated Emerson Island; and

WHEREAS, the Emerson Island is 1.88 acres of unincorporated territory located northeast of Tustin Avenue and Emerson Street immediately south of the City's boundary; and

WHEREAS, the Emerson Island is within the City's Sphere of Influence; and

WHEREAS, prezoning this territory is a necessary component of the annexation process; and

WHEREAS, the concurrent amendment to the Land Use Element of the General Plan will provide consistency with the proposed Zoning Code Amendment; and

WHEREAS, on July 25, 2006, the City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan; and

WHEREAS, on October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan; and

WHEREAS, on January 27, 2004, the City Council adopted Ordinance No. 2004-1 approving a Code Amendment (prezoning) for the Emerson Island. Due to the General Plan update in 2006 and subsequent Zoning Code update in 2010, a new Zoning Code Amendment (prezoning) is required; and

WHEREAS, at the November 8, 2012, public hearing, the Planning Commission received public comments and on an affirmative motion (7 ayes, 0 noes, 0 absent), forwarded a recommendation to the City Council to approve the proposed Zoning Code Amendment; and

WHEREAS, the Orange County Airport Land Use Commission held a meeting on November 15, 2012, and voted to find the proposed amendments consistent with the Airport Environs Land Use Plan for John Wayne Airport; and

WHEREAS, a public hearing was held on November 27, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council, including the testimony of the interested parties, affected agencies, and the evaluation and recommendations by staff.

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The City Council does hereby approve Code Amendment No. CA2012-002, establishing rezoning of R-1 (Single-Unit Residential) and RM (Multiple Residential) Zoning Districts to apply to land within the Emerson Island as depicted in Exhibit "A."

SECTION 2: This ordinance shall supersede the rezoning previously approved by Ordinance No. 2004-1 for the Emerson Island.

SECTION 3: The approval of the Zoning Code Amendment set forth in this ordinance shall become effective on the date the annexation described herein is effective and only if the annexation is approved by the Orange County Local Agency Formation Commission at which point the Zoning Map shall be amended as provided in Exhibit "A."

SECTION 4: The City Council finds that:

1. Amendments to the Zoning Code are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments, unless they are determined not to be required for the public necessity and convenience and the general welfare. The subject application was reviewed to determine if the amendment would be beneficial to the Emerson Island and surrounding area and to ensure that the annexation would not be detrimental to the City.
2. The Emerson Island is developed with single- and multiple-unit dwellings. The amendment provides zoning designations consistent with existing land uses and zoning in the area and the existing development within Emerson Island. The amendment will provide for preservation of the area's character and living environment for residents and property owners.
3. The amendment will not adversely affect the public health, safety, and welfare of the City.

SECTION 5: If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 6:

1. An Initial Study/Negative Declaration was prepared in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3.
2. The Negative Declaration was circulated for a 30-day comment period beginning on July 19, 2003, and ending on August 18, 2003. The contents of the environmental document and comments on the document were considered by the Planning Commission on November 20, 2003.
3. The City Council considered the Initial Study and Negative Declaration of the environmental impact for the project, and determined that the document adequately addresses the potential environmental effects of the proposed project.
4. The City Council adopted the Negative Declaration on January 13, 2004.
5. On the basis of the entire environmental review record, the proposed project will not have a significant effect upon the environment, and there are no known substantial adverse effects on human beings that would be caused.
6. Pursuant to CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations) and Public Resources Code Section 21166 (Subsequent or supplemental impact report; conditions), notwithstanding the passage of time since the City Council adopted the negative declaration on January 13, 2004, no subsequent or supplemental environmental document is be required because there have been no substantial changes to the project, no substantial changes to the circumstances, or any new information of substantial importance.
7. The document and all materials, which constitute the record upon which this decision was based, are on file with the Planning Division, City Hall, 3300 Newport Boulevard, Newport Beach, California.

SECTION 7: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the same to be published once in the official newspaper of the City.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach, held on the 27th day of November, 2012, and adopted on the 8th day of January, 2013, by the following vote, to wit:

AYES, COUNCIL MEMBERS _____

NOES, COUNCIL MEMBERS _____

ABSENT COUNCIL MEMBERS _____

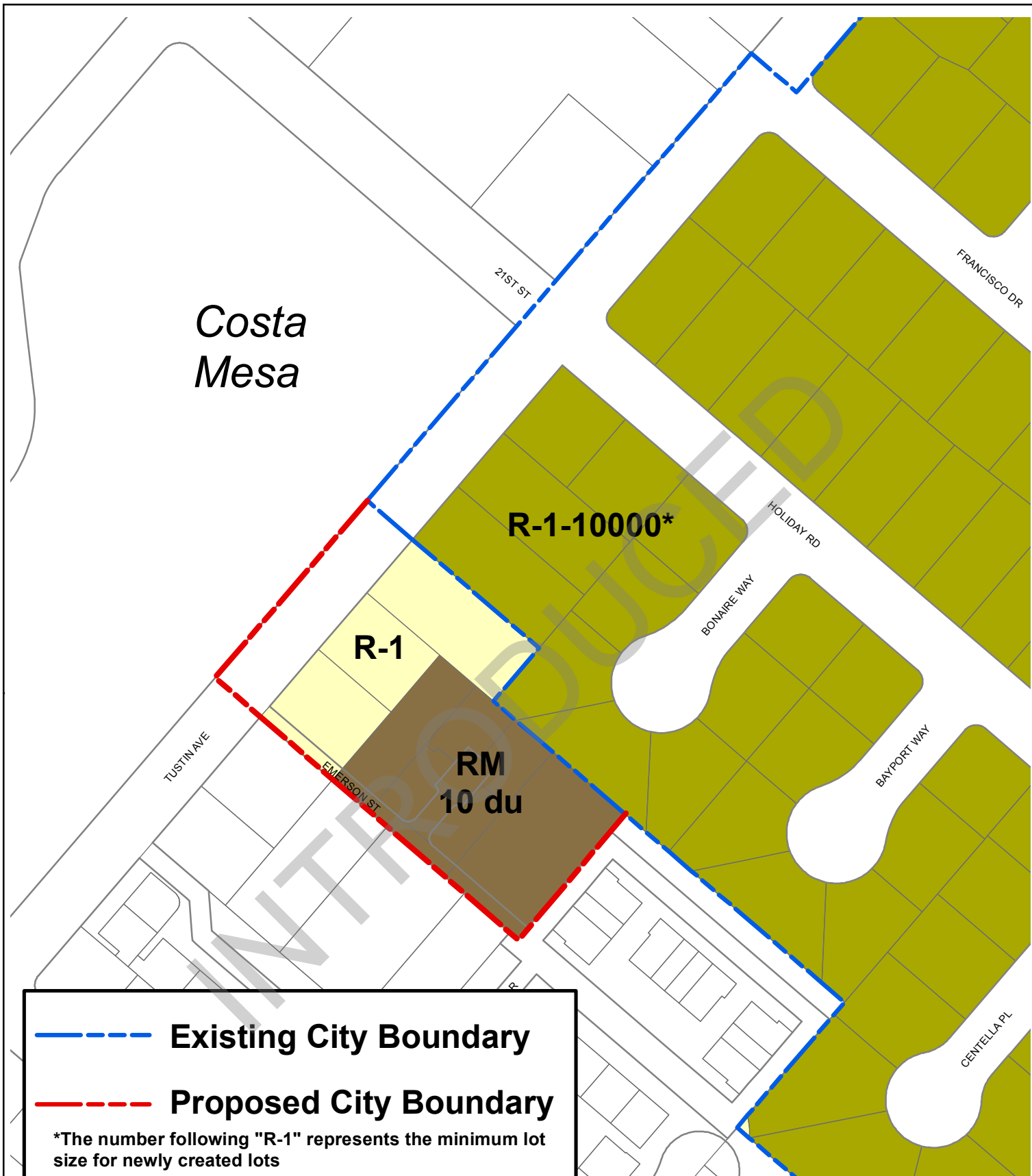
NANCY GARDNER, MAYOR

ATTEST:

LEILANI BROWN, CITY CLERK

APPROVED AS TO FORM:

AARON HARP, CITY ATTORNEY



CA2012-002 (PA2012-034)
Zoning Code Amendment
Emerson Island Annexation

Exhibit A

0 75 150 Feet



NEWPORT
info
NEWPORT INFORMATION SYSTEMS